

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

| | | |
|--|---|-------------------------------|
| In re: PHARMACEUTICAL INDUSTRY |) | |
| AVERAGE WHOLESALE PRICE |) | |
| LITIGATION |) | MDL No. 1456 |
| _____ |) | Civil Action No. 01-12257-PBS |
| |) | |
| THIS DOCUMENT RELATES TO: |) | Hon. Patti Saris |
| |) | |
| <i>United States of America ex rel. Ven-a-Care of</i> |) | |
| <i>the Florida Keys, Inc., v. Abbott Laboratories,</i> |) | |
| <i>Inc., and Hospira, Inc.</i> |) | |
| CIVIL ACTION NO. 06-11337-PBS |) | |

**UNITED STATES' AND RELATOR'S MOTION TO CONTINUE THE CMO 9 STAY
UNTIL ENTRY OF A COMPREHENSIVE CASE MANAGEMENT ORDER**

Plaintiffs, the United States of America and Relator, Ven-A-Care of the Florida Keys, request that the Court continue the stay pursuant to Case Management Order 9 ("CMO 9") until entry of a comprehensive Case Management Order that addresses: (1) the allowable scope of Abbott Laboratories, Inc.'s ("Abbott") discovery; (2) the length of time for discovery; (3) scheduling of discovery; (4) numerical limitations on interrogatories, requests for admission, document requests and deposition hours; and (5) amendments to the Protective Order governing confidential information, for the reasons stated in the accompanying memorandum of law.

Plaintiffs further request that the Court order that no party to this litigation may serve additional discovery requests, or otherwise engage in discovery, during the pendency of the stay. Finally, Plaintiffs request that the Court allow them to file a brief by September 15, 2006 that (1) sets forth their views on the proper scope and timing of discovery to be included in the

comprehensive CMO and (2) addresses their objections to Abbott's 501 pending discovery requests.

For the United States of America,

MICHAEL J. SULLIVAN
UNITED STATES ATTORNEY

PETER D. KEISLER
ASSISTANT ATTORNEY GENERAL

/s/ George B. Henderson, II
George B. Henderson, II
Assistant U.S. Attorneys
John Joseph Moakley U.S. Courthouse
Suite 9200, 1 Courthouse Way
Boston, MA 02210
(617) 748-3398
(617) 748-3272

/s/ Gejaa T. Gobena
Michael F. Hertz
Joyce R. Branda
Renée Brooker
Justin Draycott
Gejaa T. Gobena
Civil Division
Commercial Litigation Branch
P. O. Box 261
Ben Franklin Station
Washington, D.C. 20044
Phone: (202) 307-1088

For the relator, Ven-A-Care of the Florida
Keys, Inc.,

/s/ James J. Breen
James J. Breen
The Breen Law Firm, P.A.
3350 S.W. 148th Avenue
Suite 110
Miramar, FL 33027
Tel: (954) 874-1635
Fax: (954) 874-1705
Email: jbreen@breenlaw.com

Dated: August 22, 2006

CERTIFICATION

The undersigned counsel certifies pursuant to LR 7.1(a)(2) that he and the Relator's counsel, James Breen, Esq., have conferred with counsel for the Defendant on the issues raised in this motion and have not been able to reach an agreement on them.

Dated: August 22, 2006

/s/ Gejaa T. Gobena
Gejaa T. Gobena

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above UNITED STATES' AND RELATOR'S MOTION TO STAY DISCOVERY PENDING ENTRY OF A CASE MANAGEMENT ORDER" to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Dated: August 22, 2006

/s/ George B. Henderson, II
George B. Henderson, II